

United States District Court for the  
Middle District of Pennsylvania

## JUDGE'S COPY

James E. Heller - Plaintiff

Case No: 1:01-cv-00

v.

Motion to amend Statement of

James Doherty

Robert Start

Martin Williams

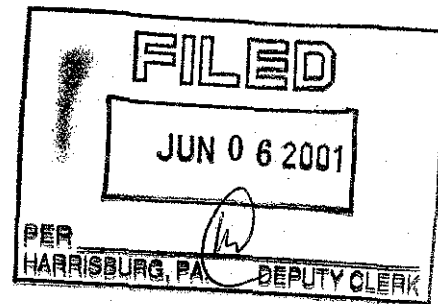
Peter Kessler

Michael Sofia

Gary McFarland

Prime Core Medical

Defendants



### Motion to amend Statement of Claim

1) The Plaintiff asks the Court to allow him to amend the Statement of Claim filed in this case.

2) The Plaintiff wishes to And prays the Court will allow him to amend the claim because:

A. The Statement of Claim only gives an account of what occurred on February 28th 2001. It does not specify how the Plaintiffs rights were violated nor which rights were violated.

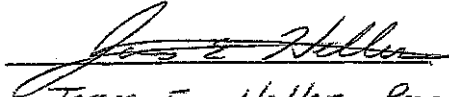
3) The Plaintiff feels that if allowed to amend his Statement of Claim he will be able to specify how his rights were violated and what rights were violated in a more understandable to the Court.

4) The Plaintiffs amendment will show how each Defendant violated his rights, and will specify which rights were violated.

5) The Plaintiff feels that by the Court allowing this amendment, the Court will in turn be able to make a fair judgement after reviewing the facts in the proposed amendment that were not set forth in the initial Statement of Claim.

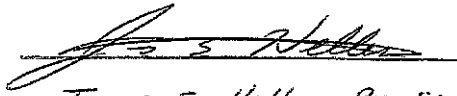
6) Lastly the Plaintiff feels that a fair judgement could not be reached without the Court first reviewing the amendment proposed herein.

I, James E. Heller, Pro-Se Plaintiff, Movant, prays this Honorable Court to inquire into the Motion to amend my Statement of Claim, and the truth of the matters herein contained, pursuant to the statute in such cases made and provided; and make such orders in the premises to the Honorable Court may seem right and proper

  
James E. Heller, Pro-Se Plaintiff

Address: 4250 Manor Drive  
Stroudsburg P.A. 18360

And now on this 1st day of June 2001, I declare under penalty of perjury that the foregoing is true and correct.

  
James E. Heller, Pro-Se Plaintiff

Address: 4250 Manor Drive  
Stroudsburg P.A. 18360

United States District Court for the  
Middle District of Pennsylvania

James E. Heller - Plaintiff

: Case No.: 1:01-cv-00828

v.

:

James Doherty

: Amendment to Statement of Claim

Robert Start

Martin Williams

Peter Kessler

→ Defendants

Michael Sofia

Gary McFarland

Prime Care Medical

Amendment to Statement of Claim

1) The Plaintiff J.E. Heller is filing this Complaint under the 8<sup>th</sup> Amendment Right to be free from cruel and unusual punishment. The Plaintiffs 8<sup>th</sup> Amendment right was violated by James Doherty, Robert Start, Martin Williams, Peter Kessler, Michael Sofia, Gary McFarland, and Prime Care Medical.

2) James Doherty did Violate the Plaintiffs 8<sup>th</sup> Amendment Right by:

A. Refusing to allow the Plaintiff to be treated by medical Personnel.

B. Acting with deliberate indifference to the Plaintiff's medical needs.

C. Knowing and disregarding a substantial risk of serious harm to the Plaintiff's health.

3) Several times the Plaintiff asked James Doherty to be treated by medical Personnel. Doherty refused to allow the Plaintiff to be treated by medical Personnel on his shift. The Plaintiff had to wait approx. 4½ hours to be treated by medical Personnel on the following Shift.

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4) Robert Start did violate the Plaintiff's 8th Amendment Right by:

A. Using force excessively, sadistically, and maliciously for the very purpose of causing the Plaintiff harm.

B. By acting with reckless disregard for the Plaintiff's health and safety.

5) Robert Start did use more force than necessary. The Plaintiff was not fighting, resisting against, or displaying any violent acts towards Robert Start. Start did cause the Plaintiff bodily injury by striking him with closed fists in the head/face area. As a result of the assault Robert Start put upon the Plaintiff, the Plaintiff suffered broken blood vessels in his right eye, and multiple bruises and abrasions to the head/face area.

6) Martin Williams did violate the Plaintiff's 8th Amendment Right by:

A. Causing a situation in which caused the Plaintiff to be assaulted.

B. Placing the Plaintiff in fear of bodily injury.

C. Acting with reckless disregard for the Plaintiff's safety.

D. Failing to take the proper steps to prevent Robert Start from seriously harming the Plaintiff.

7) Martin Williams caused the situation in which the Plaintiff was assaulted by charging towards the Plaintiff with closed fists in an act which put the Plaintiff in immediate fear of bodily injury. When the Plaintiff attempted to shield himself from being struck by Williams, Robert Start and Michael Sofia jumped on the Plaintiff, and Start began striking the Plaintiff with closed fists. Williams did nothing to prevent

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8) Peter Kessler did violate the Plaintiff's 8th Amendment Right by:

- A. Allowing his fellow officer Robert Start to use excessive, malicious, and sadistic force for the very purpose of causing the Plaintiff harm.
- B. Acting with reckless disregard for the Plaintiff's Safety.
- C. Failing to take the proper steps to prevent Robert Start from seriously harming the Plaintiff.

9) Peter Kessler knew that Robert Start was using more force than necessary and did nothing to prevent it, or to protect the Plaintiff from bodily injury.

10) Michael Sofia did violate the Plaintiff's 8th Amendment Right by:

- A. Using force excessively, sadistically, and maliciously for the very purpose of causing the Plaintiff harm.
- B. Acting with reckless disregard for the Plaintiff's health and safety.

11) Michael Sofia did use more force than necessary. The Plaintiff was not fighting, resisting against, or displaying any violent acts towards Robert Start, or Michael Sofia. Sofia kned the Plaintiff 3-4 times during the assault on the Plaintiff. Sofia admitted to this in his written incident report.

12) Prime Care Medical, an agency that provides medical treatment to inmates at M.C.C.F. did violate the Plaintiff's 8th Amendment Right by:

- A. Refusing to treat the Plaintiff for his injuries.
- B. Acting with deliberate indifference to the Plaintiff's medical needs.
- C. Acting with reckless disregard for the Plaintiff's health.

13) Prime Care Medical did violate the Plaintiff's 8th Amendment Right by not seeing that the Plaintiff

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was treated after being assaulted. By P.C.M. not treating the Plaintiff until nearly 4 1/2 hours after he was assaulted, they caused him 'unnecessary and wanton infliction of pain' proscribed by the 8th Amendment. The Plaintiff's medical needs were not treated as serious, but should have been because any medical need that causes pain, discomfort, or a risk, or threat to good health is considered serious. A risk to the Plaintiff's health can be established by the fact that his injuries were obvious.

14) The Plaintiff is filing this complaint against Gary McFarland, under the Due Process Clause of the 14th Amendment.

15) Gary McFarland did violate the Plaintiff's right to Due Process by:


A. Attempting to Prevent the Plaintiff from utilizing the Inmate Grievance Procedure.

B. Failing to forward appropriate paperwork to appropriate persons.

16) Gary McFarland did refuse to forward the Plaintiff's grievances and appeals to the Deputy Wardens and Warden. He also claimed to have not received or to have lost the Plaintiff's grievances. McFarland tried to get the Plaintiff to release his copy of the grievances filed. The Plaintiff refused because those copies are the only proof that the Plaintiff did indeed file grievances. The Plaintiff feared that Gary McFarland would intentionally lose the Plaintiff's copy of the grievances in an attempt to prevent the Plaintiff from utilizing the grievance procedure.

17) When the Plaintiff attempted to appeal that his grievances were not answered to the Deputy Warden, McFarland refused to forward the appeal to the Deputy Warden.

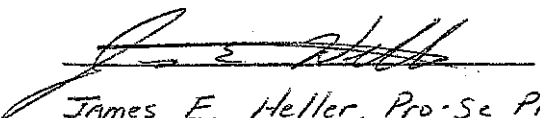
Signed this 1st day of June, 2001.

  
James E. Heller, Pro-Se Plaintiff

Executed at: Monroe County Correctional Facility 4250 Manor Dr. Shreveport, LA

I declare under penalty of perjury that the foregoing is true and correct.

Executed on: June 1st, 2001.

  
James E. Heller, Pro-Se Plaintiff

United States District Court for the  
Middle District of Pennsylvania.

James E. Heller

✓

James Doherty

Robert Start

Martin Williams

Peter Kessler

Michael Sofia

Gary McFarland

Prime Care Medical

Defendants

Case No: 1:01-cv-

Motion to Amend Statement of

ORDER OF COURT

And Now this            day of            2001, upon  
consideration of the foregoing Motion to Amend the  
Statement of Claim in this case filed by the Plaintiff.  
This Court grants the Plaintiff's Motion to Amend his  
Statement of Claim, and the Plaintiff's amendment has  
been accepted by the court for consideration.

By the Court

J.